



Final Regulation Agency Background Document

Agency name	Virginia Department of Health
Virginia Administrative Code (VAC) citation	12 VAC 5 -520
Regulation title	Regulations Governing the Dental Scholarship and Loan Repayment Programs
Action title	Amend regulations regarding existing dental scholarship and loan repayment programs as a result of Periodic Review results.
Date this document prepared	October 18, 2010

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Orders 14 (2010) and 58 (1999), and the *Virginia Register Form, Style, and Procedure Manual*.

Brief summary

Please provide a brief summary (no more than 2 short paragraphs) of the proposed new regulation, proposed amendments to the existing regulation, or the regulation proposed to be repealed. Alert the reader to all substantive matters or changes. If applicable, generally describe the existing regulation. Also, please include a brief description of changes to the regulation from publication of the proposed regulation to the final regulation.

This regulatory action proposes to clarify ambiguous language, improve the ease of administration, and clarify and make consistent the terms of default and restitution for the dentist scholarship and loan repayment programs. A substantive change proposed for the scholarship program is to limit scholarship awards' eligibility to junior and senior dental students, except in cases of extreme need in underclassmen. The other substantive change affecting the scholarship program is to limit the timeframe for reimbursement of monies paid to dentists who default on their scholarship contract and later fulfill their obligation. Substantive changes proposed for the loan repayment program are to change the time limits for application to the program by dental specialists and to change the amount of the annual award to be consistent with the amount of scholarship award for the particular calendar year. The proposed changes would also allow the amount of both scholarship and loan repayment awards to be capped at the discretion of the State Health Commissioner.

There have been no changes to the regulation since the proposed regulation was published.

Statement of final agency action

Please provide a statement of the final action taken by the agency including (1) the date the action was taken, (2) the name of the agency or board taking the action, and (3) the title of the regulation.

This regulation was approved by the Board of Health (board) on October 15, 2010, for adoption as a final regulation.

Legal basis

Please identify the state and/or federal legal authority to promulgate this proposed regulation, including (1) the most relevant law and/or regulation, including Code of Virginia citation and General Assembly chapter number(s), if applicable, and (2) promulgating entity, i.e., agency, board, or person. Describe the legal authority and the extent to which the authority is mandatory or discretionary.

The State Board of Health is authorized to make, adopt, promulgate and enforce regulations by § 32.1-12 of the *Code of Virginia*.

§ 32.1-122.9 of the *Code* requires the board to establish annual dental scholarships for students in good standing at Virginia Commonwealth University and to promulgate regulations to administer this scholarship program.

Chapter 174 of the 2000 Acts of Assembly created the Dental Loan Repayment Program in § 32.1-122.9:1 of the *Code* authorizing the Board to establish “a dentist loan repayment program for graduates of accredited dental schools ...who agree to perform a period of dental service in the Commonwealth in an underserved area as defined in § 32.1-122.5 of the dental scholarship program or a dental health professional shortage area designated in accordance with the criteria established in 42 C.F.R. Part 5.”

Purpose

Please explain the need for the new or amended regulation. Describe the rationale or justification of the proposed regulatory action. Detail the specific reasons it is essential to protect the health, safety or welfare of citizens. Discuss the goals of the proposal and the problems the proposal is intended to solve.

The amended regulation is needed to clarify ambiguous language, improve the ease of administration, and clarify and make consistent the terms of default and restitution for the dentist scholarship and loan repayment programs. The rationale behind these changes is to clarify and simplify the administration of the program.

The dental scholarship and loan repayment programs help protect and improve the public's health and welfare by improving the distribution of dentists to ensure that dental health services are available in the underserved areas of Virginia. The *Code* requires that regulations be adopted for the administration of the programs. The goals of this proposal are to address comments received from the periodic review, as well as to make the existing regulations clearer and more efficient, thus making the programs easier and more cost-effective to administer. Making the administration of programs more efficient and increasing cost-savings is a benefit to the Virginia Department of Health (VDH).

Substance

Please identify and explain the new substantive provisions, the substantive changes to existing sections, or both where appropriate. A more detailed discussion is required under the "All changes made in this regulatory action" section.

The following substantive changes to the dental scholarship and loan repayment regulations are proposed to resolve ambiguous language and to improve the ease of administration of the program:

- (i) Amend §12 VAC 5-520-10 to more clearly define certain terms used in the regulation; and,
- (ii) Amend §12 VAC 5-520-130 to expand the time limit for application to the loan repayment program by dental specialists such as oral surgeons.

Issues

Please identify the issues associated with the proposed regulatory action, including:

- 1) the primary advantages and disadvantages to the public, such as individual private citizens or businesses, of implementing the new or amended provisions;*
- 2) the primary advantages and disadvantages to the agency or the Commonwealth; and*
- 3) other pertinent matters of interest to the regulated community, government officials, and the public.*

If there are no disadvantages to the public or the Commonwealth, please indicate.

The proposed regulatory actions will make the program more cost-effective to administer, an indirect cost-savings benefit to individual citizens. Further, the actions are necessary to improve the access to dental specialty and general oral health services and to ensure adequate availability of dental services in areas of Virginia where there are presently insufficient dental services. Certain dental specialists also will benefit from the amendments to the dental scholarship and loan repayment programs, as these proposed changes will enable them to be eligible for a loan repayment award. Making the administration of programs more efficient and increasing cost-savings is a benefit to the agency.

Other pertinent matters of interest: None.

The regulatory action poses no disadvantages to the public or the Commonwealth.

Changes made since the proposed stage

Please describe all changes made to the text of the proposed regulation since the publication of the proposed stage. For the Registrar's office, please put an asterisk next to any substantive changes.

No changes were made to the text of the proposed regulation since the publication of the proposed stage.

Public comment

Please summarize all comments received during the public comment period following the publication of the proposed stage, and provide the agency response. If no comment was received, please so indicate.

No public comments were received during the proposed stage.

All changes made in this regulatory action

Please list all changes that are being proposed and the consequences of the proposed changes. Describe new provisions and/or all changes to existing sections.

Current section number	Proposed new section number, if applicable	Current requirement	Proposed change and rationale
5-520-10		<p>"Dentist loan repayment award" means an amount repaid to a dentist for dental school loans in an amount equivalent to one year in-state tuition at Virginia Commonwealth University School of Dentistry for the year in which the loan was acquired and for which the dentist is under a contractual obligation to repay through practice in an underserved area or designated state facility.</p> <p>"Designated state facility" means practice as a dentist in a facility operated by the Virginia Department of Health or Virginia Department of Mental Health, Mental Retardation and Substance Abuse Services.</p> <p>"Governing Board of Virginia Commonwealth University" means the official governing body of the university or their designee.</p> <p>"Interest at the prevailing bank rate from similar amounts of unsecured debt" means the prime lending rate as published in the Wall Street Journal on the last day of the month in which the decision to repay is communicated to the commissioner by the recipient, plus two percentage points.</p>	<p>"Loan repayment award" means an award paid to a dentist for dental school loans in an amount equivalent to the current in-state tuition and mandatory fees at Virginia Commonwealth University School of Dentistry and for which the dentist is under a contractual obligation to repay through practice in an underserved area or designated state facility. This amount may be capped at the discretion of the commissioner.</p> <p>"Designated state facility" means practice as a dentist in a facility operated by the Virginia Department of Health, Virginia Department of Behavioral Health and Developmental Services, Virginia Department of Juvenile Justice or the Virginia Department of Corrections.</p> <p>Delete definition of "Governing Board of Virginia Commonwealth University."</p> <p>"Interest at the prevailing bank rate from similar amounts of unsecured debt" means the prime lending rate plus 2% as published in the Wall Street Journal on the first day of the month in which the decision to repay is communicated to the commissioner by the recipient or on the first day of the month that the commissioner determines the recipient to be in default.</p>

		<p>"Internship or residency at an approved institution or facility" means an advanced dental education program in general dentistry or dental specialty accredited by the Commission on Dental Accreditation and approved by the American Dental Association.</p> <p>"Participating dental school" means Virginia Commonwealth University School of Dentistry.</p> <p>"Penalty" means an amount of money equal to three times the amount of all monetary scholarship or loan repayment awards paid to the recipient.</p> <p>"Period of dental service" means one year of service in a dental underserved area in return for one year of scholarship or loan repayment as defined in Part III (12VAC5-520-130 et seq.) of this chapter.</p> <p>"Primary dental health care" means the practice of general or specialty dentistry.</p> <p>"Public health service" means employment with the United States Public Health Service.</p> <p>Restitution" means the amount of monetary reimbursement, including repayment of all pertinent scholarship or loan repayment awards plus penalty and applicable interest as set forth in this regulation, owed to the Commonwealth of Virginia by a scholarship or loan repayment recipient who is in default of his contractual obligation as provided for in this chapter.</p>	<p>"Accredited residency" means an advanced dental education program in general or specialty dentistry accredited by the Commission on Dental Accreditation and approved by the American Dental Association.</p> <p>Delete definition of "Participating dental school."</p> <p>Delete definition of "Penalty."</p> <p>Delete definition of "Period of dental service."</p> <p>Delete definition of "Primary dental health care."</p> <p>Delete definition of "Public health service."</p> <p>"Restitution" means three times the award amount received plus interest at the prevailing bank rate for similar amounts of unsecured debt as set forth in this regulation, owed to the Commonwealth of Virginia by a scholarship or loan repayment recipient who is in default of his contractual obligation as provided for in this chapter.</p>
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<p>5-520-30</p>		<p>Applicability.</p> <p>These definitions shall apply to all recipients who begin practice in an underserved area as fulfillment of their scholarship or loan repayment obligation on July 1, 2001, or later, provided that approval given by the commissioner prior to May 8, 2002 shall remain in full force and effect.</p>	<p>Delete §5-520-30.</p> <p>Rationale: This section is extraneous and adds no needed information to the regulation.</p>

<p>5-520-130</p>		<p>B. Any graduate of an accredited dental school in the United States who is establishing a practice in general or specialty dentistry in an underserved area or practicing dentistry in a designated state facility shall be eligible to apply for the Virginia Dentist Loan Repayment Program. Eligible applicants will be within five years of graduation from an accredited undergraduate dental program and have existing loans accumulated as a result of their first professional education. Dentists who have received dental scholarship program awards and dentists who have accepted Exceptional Financial Need (EFN) and Financial Assistance for Disadvantaged Health Professions Students (FADHPS) scholarships are not eligible for the Dentist Loan Repayment Program.</p>	<p>B. Any graduate of an accredited dental school in the United States who is establishing a practice in general or specialty dentistry in an underserved area or practicing dentistry in a designated state facility shall be eligible to apply for the Virginia Dentist Loan Repayment Program. General practice dentists will be within five years of graduation from an accredited undergraduate dental program and have existing loans accumulated as a result of their undergraduate dental program. Specialty practice dentists will be within five years of completion of their specialty training and have existing loans accumulated as a result of their undergraduate dental program. Dentists who received Virginia scholarship awards or other scholarships that paid their full tuition and fees are not eligible for the Dentist Loan Repayment Program for the years they received those awards.</p> <p>Rationale: Differentiates between application time limits for general dentists and specialists. Extends application time limit for specialists, allowing them to apply up to five years after completion of residency training. Removes names of now non-existent federal scholarship programs and replaces them with more generic phrasing with wider applicability.</p>
<p>5-520-150</p>		<p>1. Virginia Commonwealth University School of Dentistry shall establish an application procedure and annually submit the names of qualified students to receive scholarships in accordance with the criteria for preference enumerated in this section. Dental scholarships will be awarded on or before October 30 of each fiscal year with remaining funds disbursed through the Dentist Loan Repayment Program. The total annual number of scholarship awards will be based on availability of funds. Individual scholarship recipients may receive a maximum of five scholarship awards.</p>	<p>1. Virginia Commonwealth University School of Dentistry shall use the application procedure established by the commissioner and annually submit the names of qualified students to receive scholarships in accordance with the criteria for preference enumerated in 12VACS5-520-130 of this chapter. The total number of scholarship awards will be based on availability of funds. Scholarship awards will be made annually by October 30 to third and fourth year dental students. First and second year students will be considered for an award only in the event of extreme financial need. Individual scholarship recipients may receive a maximum of</p>

		<p>2. The application period for the Dentist Loan Repayment Program will follow that for the Dental Scholarship Program, with awards made by January 30 of each fiscal year. Preference for loan repayment awards will be given to dental students graduating from Virginia Commonwealth University School of Dentistry and those with established financial need. Individual loan repayment recipients may receive a maximum of three awards upon graduation from dental school. All awards will be competitive based on the criteria enumerated in this section and will be based on availability of loan repayment funds once scholarship funds are disbursed.</p>	<p>five scholarship awards.</p> <p>2. The application period for the Dentist Loan Repayment Program will begin in October with awards made by the end of each fiscal year. Preference for loan repayment awards will be given to graduates of Virginia Commonwealth University School of Dentistry. Individual loan repayment recipients may receive a maximum of four awards upon graduation from dental school. All awards will be competitive and will be based on availability of funds.</p> <p>Rational: The default rate for scholarship recipients is an ongoing problem and was particularly high in FY08. After discussion with Virginia Commonwealth University staff, it was decided that by instituting a more substantive application process and essentially limiting the award to upper classmen, students would be selected who were most likely to fulfill the terms of their obligation upon graduation.</p> <p>Establishes a more definitive and realistic time line for the application and award process for the Dentist Loan Repayment Program. Removes the unnecessary criteria that loan repayment awards are made after scholarship awards. Removes the criteria that loan repayment awards are made based on financial need, which is almost impossible to ascertain.</p>
<p>5-520-160</p>		<p>1. Provide that the recipient of the dental scholarship award shall pursue the dental course of Virginia Commonwealth University until graduation and upon graduation or upon graduation from an accredited residency program that does not exceed four years, shall notify the commissioner in writing of his proposed practice location or intent to enter a residency not more than 30 days after graduation and begin his approved practice within 90 days after completing dental</p>	<p>1. Provide that the recipient of the scholarship award shall pursue the dental course of Virginia Commonwealth University until graduation and upon graduation or upon graduation from an accredited residency program that does not exceed four years, shall notify the commissioner in writing of his proposed practice location or intent to enter a residency not more than 30 days after graduation and begin his approved practice within 90 days after completing dental school or residency,</p>

		<p>school or residency, and thereafter continuously engage in full-time dental practice in a dental underserved area of Virginia or in a designated state facility for a period of years equal to the number of annual scholarships received.</p> <p>7. Provide that the recipient shall receive credit toward fulfillment of his contractual obligation at the rate of 12 months of dental practice for each scholarship or loan repayment award paid to the recipient. The recipient may be absent from the place of approved practice for a total of seven weeks in each 12-month period for personal reasons. Absence for a period in excess of seven weeks without the written permission of the commissioner shall result in proportional reduction of the period of credit toward fulfillment of the contractual obligation.</p> <p>8. Provide that should the scholarship recipient pay restitution by not serving his scholarship obligation in an underserved area and later fulfills the terms of his contract through dental practice as outlined in this section, that the recipient will be reimbursed for all or part of any scholarship amount paid based on the fulfillment of the scholarship obligation.</p>	<p>and thereafter continuously engage in full-time dental practice in a dental underserved area of Virginia or in a designated state facility for a period of years equal to the number of annual scholarships received.</p> <p>7. Provide that the recipient shall receive credit toward fulfillment of his contractual obligation at the rate of 12 months of dental practice for each scholarship or loan repayment award paid to the recipient. The recipient may be absent from the place of approved practice for a total of four weeks in each 12-month period for personal reasons. Absence for a period in excess of four weeks without the written permission of the commissioner shall result in proportional reduction of the period of credit toward fulfillment of the contractual obligation.</p> <p>8. Provide that, should the scholarship recipient pay restitution by not serving his scholarship obligation in an underserved area, and within five years of paying restitution fulfills the terms of his contract through dental practice as outlined in this section, the recipient will be reimbursed for all or part of any scholarship award paid based on the fulfillment of the scholarship and availability of funds.</p> <p>Rationale: Decreasing the length of absence from work from seven to four weeks is more in line with typical vacation or other leave amounts. The current regulation allows an indefinite period of time for a dentist who defaulted to decide to fulfill his obligation and be reimbursed for monies paid. This could put funding for the program in jeopardy years after the default time. The proposed change limits to five years the time period within which a defaulting dentist can decide to fulfill his obligation and be reimbursed for the scholarship amount that he has been paid.</p>
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<p>5-520-190</p>		<p>A. With respect to default, the contract shall provide that a scholarship or loan repayment recipient who fails to fulfill his obligation to practice dentistry as described in 12VAC5-520-160 shall be deemed in default under the following circumstances and shall forfeit all monetary scholarship or loan repayment awards made to him and shall make repayment of these funds plus interest plus penalty, where applicable the Commonwealth of Virginia as provided for in this chapter. The contract shall:</p> <p>3. Provide that if the scholarship or loan repayment recipient is in default due to death or permanent disability so as not to be able to engage in dental practice, the recipient or his personal representative shall repay the Commonwealth all monetary scholarship awards plus 8.0% interest on the amount of the award. Partial fulfillment of the recipient's contractual obligation by the practice of dentistry as provided for in this contract prior to death or permanent disability shall reduce the amount of repayment plus interest due by a proportionate amount of money, such proportion being determined as the ratio of the number of whole months that a recipient has practiced dentistry in an approved location to the total number of months of the contractual obligation the recipient has incurred. The commissioner may waive all or part of the scholarship or loan repayment obligation under application by the recipient or his estate under these conditions and consider whole or partial forgiveness of payment or service in consideration of individual cases of extraordinary hardship.</p> <p>4. Provide that any recipient of a scholarship or loan repayment who defaults by evasion or refusal to</p>	<p>A. With respect to default, the contract shall provide that a scholarship or loan repayment recipient who fails to fulfill his obligation to practice dentistry as described in 12VAC5-520-160 shall be deemed in default under the following circumstances and shall forfeit all monetary scholarship or loan repayment awards made to him and shall repay the Commonwealth of Virginia as provided for in this chapter. The contract shall:</p> <p>3. Provide that if the scholarship or loan repayment recipient is in default due to death or permanent disability so as not to be able to engage in dental practice, the recipient or his personal representative shall repay the Commonwealth all monetary awards plus 8.0% interest on the amount of the award. Partial fulfillment of the recipient's contractual obligation by the practice of dentistry as provided for in this contract prior to death or permanent disability shall reduce the amount of repayment plus interest due by a proportionate amount of money, such proportion being determined as the ratio of the number of whole months that a recipient has practiced dentistry in an approved location to the total number of months of the contractual obligation the recipient has incurred. The commissioner may waive all or part of the scholarship or loan repayment obligation under application by the recipient or his estate under these conditions and consider whole or partial forgiveness of payment or service in consideration of individual cases of hardship or inability to pay.</p> <p>4. Provide that any recipient of a scholarship or loan repayment who defaults by evasion or refusal to fulfill</p>
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		<p>fulfill the obligation to practice dentistry in an underserved area or designated state facility for a period of years equal to the number of annual scholarships or loan repayment awards received shall make restitution by repaying all monetary scholarship or loan repayment awards plus penalty plus interest to the Commonwealth of Virginia.</p> <p>B2. The recipient has not accepted a placement and commenced his period of obligated practice as provided for in subdivision 2 of 12VAC5-520-160; or</p>	<p>the obligation to practice dentistry in an underserved area or designated state facility for a period of years equal to the number of annual scholarships or loan repayment awards received shall make restitution to the Commonwealth of Virginia.</p> <p>B2. The recipient has not accepted a placement and commenced his period of obligated practice as provided for in subdivisions 1 and 2 of 12VAC5-520-160; or</p> <p>Rationale: Simplifies and clarifies wording to make it consistent throughout the regulation.</p>
<p>5-520-200</p>		<p>2. The commissioner in his discretion shall permit extension of the period of payment of restitution plus interest for up to 24 months from the date that the recipient is deemed to be in default.</p> <p>3. Partial fulfillment of the recipient's contractual obligation by the practice of dentistry as provided for in this contract shall reduce the amount of restitution or payment plus interest due by an amount of money equal to the same percentage of all monetary awards as the number of whole months that the recipient has practiced dentistry in an approved location as a percentage of the total number of months of the contractual obligation the recipient has incurred.</p> <p>4. Failure of a recipient to make any payment on his debt of restitution plus interest when it is due shall be cause for the commissioner to refer the debt to the Attorney General of the Commonwealth of Virginia for collection. The recipient shall be responsible for any costs of collection as may be provided in Virginia law.</p>	<p>2. The commissioner in his discretion shall permit extension of the period of repayment for up to 24 months from the date that the recipient is deemed to be in default.</p> <p>3. Partial fulfillment of the recipient's contractual obligation by the practice of dentistry as provided for in this contract shall reduce the amount of restitution by a percentage based on the number of whole months that the recipient has practiced dentistry in an approved location and the total number of months of the contractual obligation the recipient has incurred.</p> <p>4. Failure of a recipient to make any payment on his debt when it is due shall be cause for the commissioner to refer the debt to the Attorney General of the Commonwealth of Virginia for collection. The recipient shall be responsible for any costs of collection as may be provided in Virginia law.</p> <p>Rationale: Simplifies and clarifies</p>

			wording to make it consistent throughout the regulation.
5-520-210		2. Each scholarship and loan repayment recipient shall at any time provide information as requested by the commissioner to verify compliance with the practice requirements of the scholarship or loan repayment contract. The recipient shall report any changes of mailing address, change of academic standing, change of intent to fulfill his contractual obligation and any other information that may be relevant to the contract at such time as changes or information may occur. The recipient shall respond within 60 days with such information as may be requested by the commissioner.	2. Each scholarship and loan repayment recipient shall at any time provide information as requested by the commissioner to verify compliance with the practice requirements of the scholarship or loan repayment contract. The recipient shall report any changes of mailing address, change of academic standing, change of intent to fulfill his contractual obligation and any other information that may be relevant to the contract at such time as changes or information may occur. The recipient shall respond within 30 days with such information as may be requested by the commissioner. Rationale: Shortens the length of time that a recipient has to provide information that is essential for the oversight and management of the program.

Regulatory flexibility analysis

Please describe the agency’s analysis of alternative regulatory methods, consistent with health, safety, environmental, and economic welfare, that will accomplish the objectives of applicable law while minimizing the adverse impact on small business. Alternative regulatory methods include, at a minimum: 1) the establishment of less stringent compliance or reporting requirements; 2) the establishment of less stringent schedules or deadlines for compliance or reporting requirements; 3) the consolidation or simplification of compliance or reporting requirements; 4) the establishment of performance standards for small businesses to replace design or operational standards required in the proposed regulation; and 5) the exemption of small businesses from all or any part of the requirements contained in the proposed regulation.

The regulations and the proposed amendments have no adverse impacts on small businesses.

Family impact

Please assess the impact of the proposed regulatory action on the institution of the family and family stability including to what extent the regulatory action will: 1) strengthen or erode the authority and rights of parents in the education, nurturing, and supervision of their children; 2) encourage or discourage economic self-sufficiency, self-pride, and the assumption of responsibility for oneself, one’s spouse, and one’s children and/or elderly parents; 3) strengthen or erode the marital commitment; and 4) increase or decrease disposable family income.

Many Virginians, mainly in non-metropolitan areas, will benefit from the amendments to the dental scholarship and loan repayment programs. These actions are necessary to improve access to dental specialty and general oral health services and to ensure adequate availability of dental services in areas of Virginia where there are presently insufficient dental services.

Improving access to dental health services is a continuing challenge in many rural areas. Poor dental health has been increasingly linked to general well-being, so improving access to dental health services should not only improve dental health but improve general well-being. Improved access may indirectly serve to strengthen the family.